

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

RUBEN LUCIANO-JIMENEZ, :

Petitioner : CIVIL ACTION NO. 3:20-2384

v. : (JUDGE MANNION)

CLAIR DOLL, Warden, et al., :

Respondents :

O R D E R

Pending before the court is the report of Magistrate Judge Karoline Mehalchick which recommends that the petitioner be released subject to the conditions of his supervision in the United States District Court for the Southern District of New York.¹ (Doc. 33). The parties have filed a joint notice that they do not intend to file objections to Judge Mehalchick's report. (Doc. 35).

Where no objection is made to a report and recommendation, the court should, as a matter of good practice, satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. Fed. R. Civ. P. 72(b), advisory committee notes; see also *Univac Dental Co. v. Dentsply Intern., Inc.*, 702 F.Supp.2d 465, 469 (M.D.Pa. 2010) (citing *Henderson v.*

¹ See *United States v. Luciano De Lost Santos*, No. 17-CR-00-185-03-AJN.

Carlson, 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every report and recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. '636(b)(1); Local Rule 72.31.

By way of relevant background, on April 22, 20121, the petitioner filed a motion to enforce this court's order granting his petition for writ of habeas corpus (Doc. 19) which was referred to Judge Mehalchick for purposes of determining whether the petitioner received an individualized bond hearing and to conduct a hearing if necessary (Doc. 23). On June 24, 2021, Judge Mehalchick determined that the bond hearing held by the Immigration Judge did not meet the due process requirements of the court and scheduled an individualized bond hearing for July 1, 2021. (Doc. 24). That hearing was, in fact, conducted on July 1, 2021.

In the instant report, Judge Mehalchick considers whether the petitioner should be detained pending further proceedings. Upon review of the record, Judge Mehalchick determined that the petitioner should be released subject to conditions pending further proceedings. Judge Mehalchick finds that the government has failed to establish through clear and convincing evidence that the petitioner is a threat to the community if he

is released and that continued detention is necessary. As such, it is recommended that the petitioner be released subject to the terms of his supervised release in the United States District Court for the Southern District of New York.

In light of the joint notice of no objections to the report and recommendation and because the court finds no clear error of record and agrees with the sound reasoning which led Judge Mehalchick to her conclusions, **IT IS HEREBY ORDERED THAT:**

(1) The report and recommendation (**Doc. 33**) is **ADOPTED IN ITS ENTIRETY.**

(2) It is directed that the petitioner be **RELEASED** subject to the conditions imposed by this supervised release in the Southern District of New York, immediately.

s/ Malachy E. Mannion
MALACHY E. MANNION
United States District Judge

DATE: July 6, 2021

20-2384-03